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RUEHDM/AMEMBASSY DAMASCUS 0717
RUEHLO/AMEMBASSY LONDON 3590
RUEHMD/AMEMBASSY MADRID 5961
RUEHNM/AMEMBASSY NOUAKCHOTT 3733
RUEHFR/AMEMBASSY PARIS 5013
RUEHTRO/AMEMBASSY TRIPOLI 0300
RUEHTU/AMEMBASSY TUNIS 9602
RUEHCL/AMCONSUL CASABLANCA 4055

C O N F I D E N T I A L SECTION 01 OF 03 RABAT 000411

SIPDIS

STATE FOR NEA/PI, NEA/PPD, NEA/MAG AND DRL/NESCA

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TAGS: [PHUM](#) [KPAO](#) [SCUL](#) [OIIP](#) [KIRC](#) [PGOV](#) [MO](#)

SUBJECT: MOROCCAN GOVERNMENT RESPONSE TO AL-MASSAE VERDICT
DEMARCHE

REF: A. STATE 35264

[1](#)B. RABAT 0283

[1](#)C. RABAT 0021

Classified By: Ambassador Thomas T. Riley for reasons 1.4 (b) and (d).

[1](#)1. (C) Summary: In response to Ref A demarche, the Government of Morocco (GOM) has formally asserted that the libel case against al-Massae was a private law suit to which the GOM was not a party, and in which the GOM did not interfere. Although Minister of Communications Naciri told the DCM that he personally found the fine &excessive,8 his response was walked back in a defensive formal written response provided to us subsequently. On the press code, Naciri stressed that it had not been shelved, but journalists were not helping him by unethical reporting and attacks against the Government that were sometimes &mean, dishonest and gratuitous.8 A Justice Ministry official said the assignment of the case to a judge responsible for previous heavy judgments against journalists was routine, as this particular judge was the judiciary,s specialist in press libel cases. Most of our contacts inside and outside the press community have expressed little sympathy for Al-Massae and its director Rachid Niny, arguing that the newspaper can afford to pay the fine (which the newspaper denies), and noting the Niny himself sued for libel, demanding five million dirhams. The case remains on appeal as the Mission continues to highlight the larger press freedom and judicial independence issues. End summary.

Communications Minister: We,re Not Involved
But Fine &Clearly Excessive8

[1](#)2. (SBU) DCM delivered Ref A demarche on the Al-Massae libel verdict (Ref B) to Moroccan Minister of Communications Khaled Naciri on April 10. IO attended as notetaker. The DCM stressed that the case raised concerns about the Government of Morocco,s (GOM,s) commitment to press freedom and judicial independence. The DCM observed that Naciri, as a long-time activist, shared the USG,s interest in human rights. Expressing particular concern over the verdict in the Al-Massae libel case, the DCM noted that the verdict did not bring credit to Morocco and tarnished Morocco,s image as a regional leader on press freedoms.

[1](#)3. (SBU) The DCM stressed that USG concern over this case

should not be construed as implying support for Al-Massae or its political or editorial stance; our concern was for the broader principles of freedom of the press. The USG did not view this as an isolated incident, but as one in a series of judicial attacks against independent media in Morocco. He noted that the USG had undertaken substantial efforts to promote professional journalism and freedom of expression in Morocco, including by providing training and maintaining a constant dialogue with the media community. In this regard, we had also long encouraged the GOM to promulgate a new press code that decriminalized libel. The DCM stated that the USG hoped the GOM would renew its efforts on this front.

14. (C) Naciri responded that the GOM had made a fundamental choice to consolidate democracy,8 including freedom of expression. King Mohammed VI was personally very committed to this. He observed that the Moroccan press enjoyed substantial freedom of expression. He noted that neither Al-Massae nor any other newspaper had been sued by the Government or by its ministries for defamation, even though Al-Massae and other newspapers attacked the Government daily in a manner that was mean, dishonest and gratuitous.8

15. (C) The Al-Massae case was a civil libel case in which the GOM was not involved, Naciri stated. He offered assurances that the GOM had provided no instructions to the presiding judge in the case. He agreed that the fine in the verdict was clearly excessive,8 opining that it represented a case of the judiciary acting in solidarity with its own. (Note: the plaintiffs in the case were deputy

RABAT 00000411 002 OF 003

prosecutors. End note.)

16. (C) Naciri reported that a revised press code had not been shelved, but the situation was very delicate8 and frankly the journalists are not helping.8 Conservatives in the government with substantial influence pointed to examples of ethical lapses in opposing liberalization. He asked the DCM to pass a message to the journalist community to be reasonable.8 There was no question of attacking their liberties,8 but they needed to help facilitate a new press code by behaving more responsibly. Reiterating what he had said in a previous meeting with Ambassador Riley (Ref C), Naciri stated that the GOM had no intention of applying prison sentences to journalists charged under the press code.

17. (SBU) In a subsequent written response, the Ministry of Communications took a more defensive posture. The non-paper emphasized that the suit was a civil case and that the resulting verdict was not a fine8 but civil damages. The non-paper stated that most libel suits against journalists were civil cases brought by private individuals, who were exercising the natural right in civilized and democratic societies to seek damages.8 The non-paper observed that the GOM refrained from suing newspapers for libel in spite of the regular publication of false, defamatory and injurious news. The non-paper argued that a revised press code need not include the decriminalization of libel, which does not exist in any democratic country.8

MFA: Presiding Judge is Specialist

18. (C) Since receiving Ref A, the Ambassador has sought a meeting with the Minister of Justice to deliver the demarche. As the Minister has been uncharacteristically unavailable, PolCouns met with Ministry of Justice (MOJ) Secretary General Mohammed Ledidi (Deputy Secretary equivalent) on May 6. Ledidi said that all of the recent media cases that resulted in seemingly excessive fines were heard by the same judge because he is our specialist on journalism cases.8 When pressed further, he mentioned that most legal systems had judges who specialized in specific technical fields. Ledidi

added that the case was not closed and that the verdict could be modified on appeal, saying, &If there was a mistake in judgment, it will be corrected by a higher court. The system works.⁸ Noting the common incidence of libel in the nascent Moroccan independent press, Ledidi calmly but categorically denied any &premeditation⁸ or fixing in the Al-Massae or previous media trials.

¶9. (C) Ledidi responded to a question about the excessive size of recent media fines by asking how anyone could effectively judge the cost of damages to a person,s reputation. He emphasized that he was not personally defending the amounts, but wondering what scale the USG was using to determine &disproportionate.⁸ Ledidi explained that the plaintiffs in the Al-Massae case suffered real damage, even though they were local prosecutors. They were harassed, subjected to stone throwing, threats and at least one eventually had to leave the town of Ksar El Kebir permanently. Under Moroccan law, libel fines are not based on a defendant,s ability to pay, but on a subjective accounting of the damage caused by the libelous action, much like medical malpractice suits in the U.S., Ledidi stated.

Other Developments

¶10. (SBU) While Al-Massae and Niny have appealed the verdict against them, two of the plaintiffs have also appealed the size of the fine, claiming that the fine was insufficient when compared with the damage to their reputations. A contact in the MFA claimed that Al-Massae,s profits are more than sufficient to cover the fine and survive. Al-Massae Editor-in-Chief Touafiq Bouachrine hotly contested this claim, stating that Al-Massae and its sister French-language daily Le Soir would have to shut down if forced to pay the

RABAT 00000411 003 OF 003

fine.

¶11. (SBU) Meanwhile, the Director General of Eco Medias Group, which owns two newspapers and a radio station, told us that Niny had recently sued one of his newspapers for libel for calling Niny a &humorist⁸ in an article. (Note: Before launching Al-Massae, Niny was best known as a satirical columnist. End note.) Niny asked for damages of MAD five million; the case was dismissed. This senior journalist noted sardonically that, if Niny,s reputation was worth MAD five million, surely the plaintiffs in the case against him could argue their reputations were worth MAD 1.5 million each. This same journalist noted that his company quietly settles millions of dirhams in libel suits every year; journalists inevitably make mistakes, he said, and sometimes they have to pay the price.

Comment

¶12. (C) Following initial protests against the size of the fine, this case has been quietly dropped by local and international defenders of press freedom; it is never mentioned by our press contacts unless we raise it first. In stark contrast, the imprisonment of journalist Mustapha Hormatallah) who is serving an eight-month prison sentence for having published a confidential military document and (reportedly) refusing to reveal the name of his source) has become a cause celebre both locally and internationally. There have been numerous local demonstrations in his support, substantial press coverage of his recent hunger strike, and he has been the focus of publicity campaigns by international human rights organizations. (Note: Morocco,s treatment of the Hormatallah case appears analogous to the imprisonment of Judith Miller for contempt-of-court following her refusal to disclose her sources. Hormatallah has alleged no physical mistreatment, and was freed on bail for several months while

his case was heard on appeal. The handling of this case thus can be interpreted as representing a significant advance for human rights in Morocco. End note.)

¶13. (C) The Moroccan press continues to print on a daily basis articles that expand the boundaries of press freedom, including on security-related issues of great local sensitivity. One weekly, for example, recently published a detailed article on the workings of a major domestic security agency, featuring on its front cover a satellite photo of its headquarters. At the same time, scurrilous cases of libel and problems with journalistic ethics abound in the rapidly evolving media environment. On balance, the overall trend-line of press freedom is positive, this case notwithstanding. Nonetheless, the Mission will continue to seek opportunities to push for press freedom and judicial independence. End comment.

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Riley